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REMARKS/ARGUMENTS

The examiner is again respectfully requested to reconsider her rejection of claim 1 as being unpatentable over Brochu (US 2004/0187394) in view of Meckstroth (US 6412228) as applied under 35 U.S.C. 103(a).

Claim 1 now in the application calls for a gutter cover having an intermediate section and an outer side section on one side of the main section. The intermediate section is a perforated panel. 'Panel' is defined in the Webster-Merriam dictionary as a flat, usually rectangular, construction member. Applicant's panel is therefore a flat panel. The panel is separate from the outer side section. The outer side section is defined as a channel having a bottom wall aligned with the panel, a top wall and an end wall joining the top wall to the bottom wall.

Brochu shows a gutter cover having an intermediate section 72 and a separate outer side section. The intermediate section 72 is flat and perforated. The outer side section has an inner vertical wall 90 leading up from the intermediate section 72 and an outer vertical wall 92 (shown as 29 in the drawings-Fig.5), not as long as wall 90, radiused from the top end of the inner vertical wall 90 and parallel to it. A horizontal portion 94 extends outwardly from the bottom end of the outer wall 92 and has a reverse edge.

Brochu shows a first channel in the outer side section formed by the inner wall 90 and the outer wall 92 but the inner wall is vertical, not horizontal, and so is not aligned with the intermediate section 72 and thus this first channel is not the same as applicant's channel. Brochu also shows a second channel formed by the reverse edge of the horizontal portion 94 but neither the top wall or bottom wall of this channel is aligned with the intermediate section 72 of the cover and thus this channel is not the same as

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applicant's channel. Further, the first channel in Brochu is not in position to be pulled over the lip of the gutter and does not have a vertical end wall that can be used to pull the channel over the gutter lip. The second channel in Brochu opens in the wrong direction to be pulled over the gutter lip and has its vertical end wall in a position to block any attempt to pull it over a gutter lip.

The examiner states that Meckstroth discloses a gutter cover having a channel that opens away from a main section of the cover. Claim 1 calls for the channel to be separate from the main section. In Meckstroth, most of the channel is a part of the main section and thus not separate from it. Meckstroth clearly states that the bottom wall 76 of the channel is an integral part of the channel portion 68 which is part of an S-shaped second intermediate section. The intermediate section of the cover in Meckstroth comprises the flat section 52 and the S-shaped section 68. Thus the channel is part of the intermediate section in Meckstroth and not a separate outer side section. Meckstroth has a separate outer side section composed of the outer flange portion 58 and member 78.

If the second intermediate section in Meckstroth, which includes part of the channel, is taken as being separate from the first intermediate section then the channel in the second section is not aligned with the first intermediate section. Either the channel formed in Meckstroth is part of the intermediate section or it is not. If part of the intermediate section how can it be aligned with itself? If not part of the intermediate section, then it is not aligned with the intermediate section.

The examiner states that it would have been obvious to replace the outer channel in Brochu with a channel as taught by Meckstroth. It is not clear which outer channel in Brochu the examiner is referring to. The first outer channel in Brochu, formed by panels or walls 90, 92 extends vertically. If this channel is replaced by the Meckstroth channel, it is not aligned with the perforated panel and opens upwardly or downwardly. The second channel

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in Brochu is horizontal but opens inwardly and not outwardly. If this second channel is replaced by Meckstroth's channel, it cannot be pulled over the lip, nor would it be aligned with the perforated panel.

It is easy to state that it would be obvious to replace the outer channel (either one) in Brochu with the Meckstroth channel and arrive at applicant's claimed structure. However, the examiner does not state how Meckstroth's channel should be mounted to the perforated panel and there is no teaching in Meckstroth or Brochu as to how it should be mounted.

Even if were somehow obvious to cut off both outer channel(s) in Brochu at a point where the bottom of wall 90 joins the flat intermediate panel 72 and then attach the Meckstroth channel to the outer edge of the flat intermediate panel 72, there is no teaching or suggestion in the prior art how the attachment is to be made. Is the attachment made so the top wall of the channel is aligned with the panel 72, or so the bottom wall is aligned with the panel; or so the panel is attached to the end wall at a point somewhere between the top and bottom walls?

The only teaching for attaching the channel to the panel so its bottom wall is aligned with the panel is applicant's teaching. Applicant does this so the end wall can be gripped to pull the channel over the lip of the gutter to easily mount it. Meckstroth does not teach or suggest that his channel is used in this manner nor is the channel even positioned where this could be attempted. Brochu does not teach this type of gutter mounting either. Brochu mounts his gutter using a clip fastened to the bottom of the panel, the clip mountable on a gutter support spike. The outer side of Brochu's cover-wall 94-is located above the panel to rest on the top of the gutter lip. Brochu has a vertical wall 90 adjacent the perforated panel, but this wall is a side wall and not an end wall. Further, this wall is not used to mount the cover nor is it specifically used to pull the cover outwardly to pull a channel on the outer side of

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the panel over a gutter lip to mount the cover. Brochu has no reason to do this. He mounts the cover differently and does not need an outer channel to receive the gutter lip. The vertical wall in Brochu is used as a water dam and for nothing else.

The examiner has stated that applicant cannot show obviousness by attacking references individually when the rejections are based on a combination of references. Applicant is not attacking the references but merely pointing out that the examiner's statements and/or interpretations of the references taken individually do not appear to be correct.

To summarize:

Claim 1 calls for a gutter with a flat panel intermediate section and an outer section attached to one side of the intermediate section. The outer section comprises a channel having a bottom wall aligned with the panel section. The channel has a top wall and an end wall joining the top and bottom walls, the end wall obviously being above the panel section so it can be gripped.

Brochu shows an outer section having two channels, one channel being vertical, the other opening inwardly. Neither channel has a bottom wall aligned with the panel as claimed in claim 1. Neither channel has an end wall providing a gripping surface to pull the cover over the gutter lip.

The examiner states that Meckstroth shows a channel aligned with an intermediate section of a cover. However, the channel is part of the intermediate section, as clearly stated in the patent, so it is not clear how can it be aligned with it.

Even if it were obvious to replace the channels in Brochu with the Meckstroth channel there is no teaching in either patent how or where the channel is to be attached. Nor has the examiner indicated how or where the Meckstroth channel would be attached to the Brochu intermediate panel. There is simply nothing in either patent that shows or suggests that a channel can be formed on the edge of a gutter cover with a pulling wall above the panel section of

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the cover so the cover can be mounted by pulling the channel, via the wall, over the gutter lip. Brochu mounts his cover in an entirely different manner, and Meckstroth mounts his cover by pulling on a tab 78..

Reconsideration of claim 1 is respectfully requested.